

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Citizens Utility Board	)	
Petition for Expedited Permanent Waiver of	)	NSD File No. L-01-161
47 CFR Section 52.19(c)(3)(ii)	)	CC Docket No. 96-98
	)	

**REPLY COMMENTS OF THE CITIZENS UTILITY BOARD  
TO AT&T, CTIA AND VERIZON WIRELESS**

Pursuant to the Public Notice released December 13, 2001, the Illinois Citizens Utility Board (“CUB”) hereby submits these Reply Comments in support of the Amended Citizens Utility Board Petition for Expedited Permanent Waiver of 47 CFR Section 52.19(c)(3)(ii) (filed Oct. 4, 2001) (“Petition”). CUB replies to Comments submitted by AT&T Wireless Services, Inc. (“AT&T Wireless”), The Cellular Telecommunications & Internet Association (“CTIA”), and Verizon Wireless.

**I. 847 Was the First Area Code to Implement Pooling and Conservation Nation Wide and Is Therefore Unique**

Both AT&T Wireless and Verizon Wireless contend that CUB has failed to demonstrate that “special circumstances” exist in the 847 area code or Number Planning Area (“NPA”). AT&T Comments at 1; Verizon Comments at 4. There are several unique and “special circumstances” in the 847 NPA, however, that provide good cause warranting a deviation from the Commission’s ten-digit dialing rule. Since May 1998, the Illinois Commerce Commission (“ICC”) has led the nation in attempting to curb the wasteful distribution and hoarding of telephone numbering resources by telecommunications and paging companies through the

issuance of number pooling and conservation mandates. In April of 1997, CUB filed a petition that asked the ICC to adopt telephone number pooling and number conservation in the 847, 630, 773, 312 and 708 Chicago-area NPAs as a means of forestalling area code exhaust within the region. After contentious hearings were conducted, in which carriers opposed the implementation of number pooling and conservation, the ICC issued its groundbreaking Order mandating the immediate implementation of number pooling by wireline carriers in the 847 NPA and number conservation measures by both wireline and wireless carriers in all five area codes.

The number conservation and pooling measures advocated by CUB and the ICC were the basis for this Commission's order mandating the same system to be implemented by all state commissions. *In the Matter of Number Resource Optimization*, CC 99-200, FCC 00-104, Report and Order (rel. March 31, 2000) ("First NRO Order") at ¶ 8. In fact, the Commission stated the following with regard to Illinois' pooling efforts:

[W]e are persuaded from our observation of the ongoing mandatory state-sponsored pooling trial in the 847 NPA in Illinois that thousands-block number pooling can extend the life of an NPA in a manner in which the benefits exceed the carrier-specific costs which carriers must incur to enable them to receive pooled numbers.

First NRO Order at ¶ 123. The conservation and pooling measures implemented in the 847 NPA staved off exhaust for more than four years past its originally-projected exhaust date, making its implementation more successful than any party except CUB predicted. In fact, new carriers to the 847 NPA to date all have numbers in the 847 NPA and received them after 847 would have gone into premature exhaust. The 847 NPA, therefore, maintains a unique and progressive status in comparison to other area codes nation wide.

This Commission wisely predicted that an exception in the 847 NPA with regard to pooling and conservation initiatives would produce very positive and effective results. The

Commission could produce similarly effective, successful results in the present circumstances by granting CUB's Petition.

## **II. Customers of New Carriers Are Not More Likely to Dial Ten Digits Than Customers of The Incumbent Carrier**

AT&T Wireless argues that a new carrier's customer in a new overlay area code must dial ten digits in more instances than the customer in the old area code. AT&T Comments at 5. AT&T Wireless makes many assumptions with this argument. First, and most importantly, AT&T's theory only makes sense if new carriers do not have access to numbers in the 847 NPA. As discussed more thoroughly below, AT&T's theory is uniquely untrue in the 847 NPA. Second, according to NANPA's website, Ameritech, the incumbent carrier in Illinois, was one of the first carriers to get a block of numbers from the new 224 NPA.<sup>1</sup> Thus, it appears that certain Ameritech customers will also be dialing ten digits, presumably by choice, perhaps just as frequently or even more frequently than customers of other carriers. This fact completely dispels the argument that only customers of new carriers would receive the 224 area code and thus be required to "dial ten digits in more instances." AT&T Wireless Comments at 5.

## **III. Verizon Wireless' Policy Arguments in Support of Ten-Digit Dialing Should be Rejected**

In its Petition requesting forbearance from the FCC's rules imposing local number portability ("LNP") requirements on commercial mobile radio service ("CMRS" or "wireless") providers, Verizon asserts that the cost of compliance with the LNP mandate, "will be expensive and burdensome to achieve," and that the expense cannot be justified by the goal of increased competition because competition among carriers "is already being achieved." Verizon Wireless Petition, Docket No. WT 01-184 at 12. Further, Verizon also maintains that effective competition would not be impaired by permanent forbearance of LNP requirements. *Id.* Verizon

performs its own cost-benefit analysis to demonstrate that the benefit of meeting the LNP mandate, i.e., increased competition, does not warrant the expense of achieving that goal.

In contrast, Verizon states in its Comments to CUB's Petition that "Area code relief imposes costs and inconveniences on everyone, not the least of all telecommunications carriers charged with implementing relief and educating their customers," and further that "implementing ten-digit dialing to mitigate the dialing disparity caused by overlays has not been an unreasonable or unduly burdensome task." Verizon Comments at 6. Verizon believes that the "ten-digit dialing rule is still needed to overcome the dialing disparity," and the resulting alleged anti-competitive harm. *Id.* In contrast, Verizon's Petition for a forbearance in and of itself had potentially anti-competitive effects, because it would have made it impossible for wireless customers to switch providers without changing their phone number. Clearly, Verizon's "cost-benefit" analysis serves only its own narrow and limited needs. If Verizon's statements that competition in the wireless market is vigorous are correct, and new carriers do indeed have sufficient access to numbers in the 847 NPA, then its argument that "dialing disparity" results in anti-competitive harm should be rejected.

#### **IV. The Benefits of Granting CUB's Petition Outweigh the Unlikely Potential Costs**

AT&T Wireless argues that the benefits of ten-digit dialing outweigh the costs. AT&T Comments at 6. However, the underlying policy initiative supporting the ten-digit dialing rule, that anti-competitive results would occur without it, has never actually been shown to occur. No evidence has ever been produced to show that new customers would be less likely to take a number in the new area code. In point of fact, New York City has had an all-services overlay in effect in the 212 NPA since July 1999 without the ten-digit dialing requirement in effect. Notably, no carrier serving that area has gone to the FCC to complain that it has suffered anti-

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<sup>1</sup> [www.nanpa.com](http://www.nanpa.com) (Central Office Code Assignments) (January 2, 2002 update).

competitive impacts as a result of the lack of ten-digit dialing. Nor has any carrier alleged that it has suffered any other type of harm as a result of the lack of ten-digit dialing.

Furthermore, in its recently released Third Report and Order and Second Order on Reconsideration in CC Docket No. 96-98 and CC Docket No. 99-200 (rel. Dec. 28, 2001) (“Third NRO Order”), the Commission has changed a long-standing policy against service-specific or specialty overlays (“SOs”). The Commission believes that circumstances have changed that “justify lifting the blanket prohibition on SOs and, instead, ...will consider SO proposals on a case-by-case basis.” Third NRO Order at ¶ 72. In the Commission’s view, the “benefits of making more numbering resources available through SOs may, in some circumstances, outweigh their potential discriminatory effect.” *Id.* In the same way, the benefits of granting CUB’s Petition and lifting the ten-digit dialing requirement in the 847 NPA greatly outweigh the potential anti-competitive effect it could potentially cause.

Ten-digit dialing provides no benefits either to consumers or to the overall policy objective supporting number conservation. In fact, the only benefit it does provide is purely fictional. As pointed out in the New York case above, the hypothetical anti-competitive effects associated with an overlay lacking ten-digit dialing have not been shown to actually exist. The allegation that “dialing disparity” will inevitably create an anti-competitive impact is wholly unsupported. The mere existence of variable dialing patterns within an area code does not in and of itself constitute harm.

As CUB pointed out in its Petition, all carriers in the 847 NPA, whether new or old, will have equal and plentiful access to numbers in the 224 NPA, as well as the 847 NPA. Petition at 12-14. The 847 NPA is unique, because it has exhausted all full NXX codes from the NANPA, yet enjoys abundant numbers of full thousand-blocks in the 847 pool. *See* Report and

Recommendations. Even assuming a new customer would prefer a number in the 847 NPA from a new carrier, they would not be forced to choose a carrier based on this fact, because all carriers – even new ones – have access to numbers in both the 847 and 224 NPAs. Therefore no carrier will suffer anticompetitive impacts from the new area code and new carriers will have no disincentive to seek entry into the telecommunications market in the 847/224 NPA.

Additionally, CTIA mistakenly argues that “Ten-digit dialing is an important number conservation measure because it extends the life of area codes by making Central Office codes available, which otherwise could not be assigned.” CTIA Comments at 3. CTIA points erroneously to the problem of “protected codes” that was an issue in the metropolitan Kansas City area codes. *Id.* at 3-4. A Central Office (“CO”) code (or “NXX”) is “protected” where there is “seven-digit across area code boundary dialing, the codes are marked as ‘protected’ for seven-digit dialing in the NANPA database.” *Id.* at 3-4. In furtherance of CUB’s position that 847 is a unique NPA, this problem does not exist in Illinois.

Finally, the Commission has recently ruled that it will not allow wireless carriers any extension of the implementation date for to participate in pooling by November 24, 2002. Third Report and Order at ¶ 23. Though the Commission determined that the existence of number portability does not resolve dialing disparity for new customers of new competitors, wireless pooling could achieve significant number resource efficiency in the 847 NPA, as well as all other 847 NPAs. *In the Matter of Number Resource Optimization*, CC 99-200, FCC 00-429, Second Report and Order (rel. Dec. 29, 2000) (“Second NRO Order”) at ¶ 300; ¶ 307. As a result of wireless portability and pooling, exhaust in the other Illinois area codes could be staved off for years to come. Therefore, the 847 NPA has now truly become an island of ten-digit dialing in

Illinois. These special circumstances that exist uniquely in the 847 NPA provide abundant justification for a waiver from the Commission's ten-digit dialing rule.

#### **IV. CONCLUSION**

WHEREFORE, for the foregoing reasons, CUB respectfully requests that the Commission grant a permanent waiver of the ten-digit dialing requirement for the 847 and 224 NPAs in suburban Chicago, Illinois. Pursuant to section 1.3 of the Commission's rules, the Commission should grant a waiver of a provision of its rules based upon the foregoing demonstration of "good cause." 47 CFR § 1.3. For the reasons set forth above, CUB requests that the Commission grant the consumers of Illinois an expedited permanent waiver of the ten-digit dialing requirement for the 847 and 224 area codes.

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Respectfully submitted,

Citizens Utility Board

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